

FILED

Calif. Valley Miwok Tribe v. U.S.A., 04-16676

AUG 17 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

SILVERMAN, Circuit Judge, concurring:

As often occurs, the district court decided this case on one fully dispositive ground, and then, in an example of belt-and-suspenders precaution, it also decided the case on an alternative ground, just in the event that its first basis was mistaken. The appellant totally failed to address in its opening brief the first alternative basis on which the district court dismissed the case – that the suit was barred by sovereign immunity. Because appellant failed to argue, must less show, why the district court's sovereign immunity ruling was in error, I would affirm the district court.